

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Malkin et al.

Docket: YOR920010331US1 (8728-517)

Serial No.: 09/904,088

GROUP ART UNIT: 3629

Filed: July 12, 2001

EXAMINER: Borissov, Igor N.

For: **METHOD FOR INDICATING CONSUMER DEMAND**

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Examiner:

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a Notice of Appeal.

Please consider the following remarks:

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postpaid in an envelope, addressed to the: Mail Stop AF, Commissioner for Patents, PO Box 1450, Alexandria VA 22313-1450 on 9/29/2005.

Dated: 9-29-05


Nathaniel T. Wallace

REMARKS

Claims 1, 3, 5-16 and 21-23 are pending. Reconsideration of the rejections is respectfully requested in view of the remarks.

Claims 1, 3, 7-9, 13-16, and 21-23 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Zweben et al. (U.S. Patent Application No. 2002/0169686) in view of Godsey et al. (US 2002/0161651) and further in view of Jenkins (USPN 5,186,281). The Examiner stated essentially that the combined teachings of Zweben, Godsey and Jenkins teach or suggest all the limitations of claims 1, 3, 7-9, 13-16, and 21-23.

Claim 1 claims, *inter alia*, “receiving the electronic service request including the customer purchase order; tracking a location of the mobile device issued to the customer; and delivering the product to a checkout register according to the location to which the mobile device is tracked.” Claim 9 claims, *inter alia*, “determining a customer purchase order for a selected product, the electronic service request including the customer purchase order; tracking a location of the mobile device issued to the customer to a checkout register; and delivering the selected product to the checkout register according to the location to which the mobile device is tracked.”

Zweben teaches providing information to a mobile device (see Zweben paragraph [0003]). Godsey teaches methods for tracking shopping carts (see Godsey paragraph [0019]). Jenkins teaches a system and method for selecting an item that is delivered to a finalizing terminal (see Jenkins Figure 8). The combined teachings of Zweben, Godsey and Jenkins fail to teach or suggest delivering a product to a checkout register according to a location to which a mobile device is tracked, essentially as claimed in claims 1 and 9. For example, none of the cited references teach or suggest delivery of a product to a checkout register according to a location to which a mobile device is tracked (see for example, amendment filed 8/31/05, page 7, lines 20-21;


page 8, lines 8-12, and page 9, lines 2-3). Zweben teaches the delivery of information to a mobile device as a service; Zweben does not teach delivery of a product, much less delivery of a product to a checkout register. Products of Godsey are brought to a checkout register by a customer, independent of any tracking. The products of Jenkins are delivered to a finalizing terminal independent of any tracking.

Therefore, the combined teachings of Zweben, Godsey, and Jenkins fail to teach or suggest “delivering the product to a checkout register according to the location to which the mobile device is tracked” as claimed in claim 1 or “delivering the selected product to the checkout register according to the location to which the mobile device is tracked” as claimed in claim 9.

Claims 3, 5-8, and 21 depend from claim 1. Claims 10-16, 22 and 23 depend from claim 9. The dependent claims are believed to be allowable for at least the reasons given for claims 1 and 9.

For the forgoing reasons, the application, including claims 1, 3, 5-16 and 21-23, is believed to be in condition for allowance. Early and favorable reconsideration of the case is respectfully requested.

Respectfully submitted,



Nathaniel T. Wallace
Reg. No. 48,909
Attorney for Applicants

F. CHAU & ASSOCIATES, LLC
130 Woodbury Road
Woodbury, New York 11797
TEL: (516) 692-8888
FAX: (516) 692-8889